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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/723,126

11/25/2003

Donald R. Gilbreath

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THE GATES CORPORATION
IP LAW DEPT. 10-A3
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EXAMINER

DUNWOODY, AARON M

ART UNIT

PAPER NUMBER

3679

MAIL DATE

DELIVERY MODE

03/30/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/723,126	Applicant(s) GILBREATH, DONALD R.	
	Examiner Aaron M. Dunwoody	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

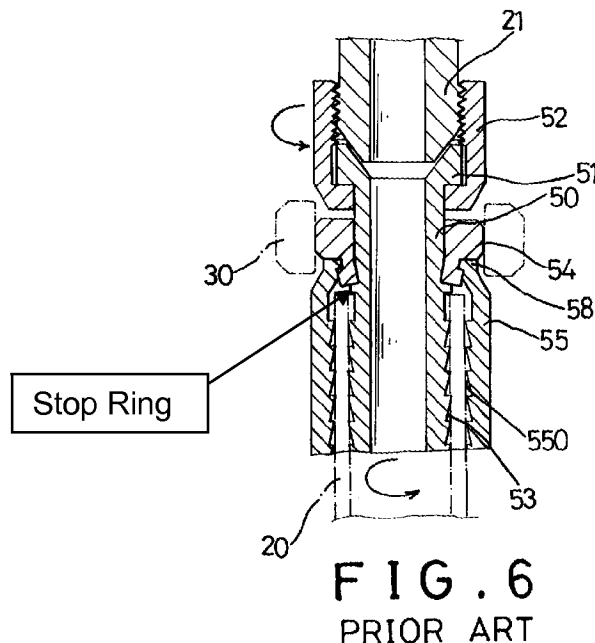
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent 6318763, Huang in view of US patent 5709413, Salyers.

In regards to claims 1 and 2, Huang discloses an improved hydraulic fitting having a stem (50) including a hose insert portion (53), and a collar support portion, having a mating connection portion (50, 51), and a collar having (54), a torque communication portion, a female support portion, and an inner periphery extending through the ferrule support portion and the torque communication portion, the improvement comprising:

the collar support portion an axial stop ring (see Figure 6 below),



the torque communication portion of the collar staked in such a manner that the inner periphery extending through the torque communication portion communicates in a relatively non-rotational manner, and

the ferrule support portion of the collar staked in such a manner that the inner periphery extending through the ferrule support portion engages the axial stop ring in an axial movement limiting manner.

Huang teaches splines stem, but does not disclose the collar support portion including knurling. Salyer teaches substituting splines (801) and knurling (724), "so that the tubing is effectively gripped" (col. 7, line 46-47). As Salyer relates to fittings for fluidic devices, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the splines Huang with the knurling of Salyer, so that the tubing is effectively gripped, as taught by Salyer.

Note, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation is given little patentable weight.

In regards to claim 3, Huang discloses a ferrule (55) affixed upon the ferrule support portion.

In regards to claim 4, Huang in view of Salyer discloses a hydraulic coupling and hose (20) comprising:

- a hose end fitting including a stem having a hose insert portion, and a collar support portion,

- the collar support portion of the stem including knurling and an axial stop ring,

- a collar having, a torque communication portion, a female support portion, and an inner periphery extending through the ferrule support portion and the torque communication portion,

- the torque communication portion of the collar staked such that the inner periphery extending through the torque communication portion communicates with the knurling in a relatively non-rotational manner, the ferrule support portion of the collar staked such that the inner periphery extending through the ferrule support portion engages the axial stop ring in an axial movement limiting manner, a mating connection portion, the hose fitted upon the hose end fitting,

- an apparatus fitting, and

- the apparatus fitting sealingly mated to the mating connection portion of the hose end fitting.

Note, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation is given little patentable weight.

In regards to claim 5, Huang discloses a ferrule staked upon the ferrule support portion and the hose crimped under the female.

Note, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation is given little patentable weight.

Response to Arguments

Applicant's arguments filed 12/1/2008 have been fully considered but they are not persuasive.

Applicant argues that Huang teaches away from use of torque limiting feature with any axial stop ring. The Examiner disagrees. The original disclosure of the instant application recites:

There is currently a stake collar design that retains the ferrule on the coupling hose end fitting while supporting a significant longitudinal load. However, this collar design will rotate relative to the stem at fairly low torque values. This collar design is staked on one side of the collar only.

Huang recites:

However, relative rotation of the connecting pipe (50) to the locking sleeve (54) occurs due to the weak lock between the locking sleeve (54) and the connecting pipe (50) when the upper sleeve (52) is screwed onto the union (21). A problem of scraping the hose (20) occurs.

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The original disclosure of the instant application and Huang are referring to the same low torque limit of the staking operation illustrated in Huang's Figure 6 above. The torque limit may be low, but it does resist low torques. Also, Huang clearly illustrates a stop ring in Figure 6 above. Therefore, Huang does not teach away from use of torque limiting feature with any axial stop ring, but discloses the use of low torque limiting feature with an axial stop ring, which meets the claim limitation.

Further, Simply that there are differences between two references is insufficient to establish that such references "teach away" from any combination thereof. In re Beattie, 974 F.2d 1309, 1312-13, 24 USPQ2d 1040, 1042 (Fed. Cir. 1992).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, as Salyer relates to fittings for fluidic devices, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the splines Huang with the knurling of Salyer, so that the tubing is effectively gripped, as taught by Salyer.

Further, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the

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references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Furthermore, it has been held that the mere fact that the reference relied on by the Patent and Trademark Office fail to evince an appreciation of the problem identified and solved by applicant is not, standing alone, conclusive evidence of the nonobviousness of the claimed subject matter. The references may suggest doing what an applicant has done even though workers in the art were ignorant of the existence of the problem. *In re Gershon*, 152, USPQ 602 (CCPA 1967).

Applicant argues that Examiner's restriction is improper. The Examiner disagrees. This issue was addressed and made Final in the Office Action mailed 6/7/2007.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M. Dunwoody whose telephone number is 571-272-7080. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aaron M Dunwoody/
Primary Examiner, Art Unit 3679

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